



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,298	03/16/2004	Joshua Gordon	50857.61068 US	3032

7590 12/21/2005
Edwards & Angell, LLP
P.O. Box 55874
Boston, MA 02205

EXAMINER

ELDRED, JOHN W

ART UNIT PAPER NUMBER

3641

DATE MAILED: 12/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/801,298	Applicant(s) GORDON, JOSHUA	
	Examiner J. Woodrow Eldred	Art Unit 3644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>03162005</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 2, 3, 9, 12, and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 2, the geometric positions of the envelope “with respect to said chassis” is vague and indefinite since no axes are defined for either the chassis or the various portions. In claim 12, “an independent rear wheel drive train” is vague and indefinite. It is not clear what structural limitations are included in this term. Are they independent from each other, or from the total drive train, or from the engine? It is also not clear what elements are required to comprise a “drive train” here. Does it require all the same elements required for the “main drive train”? In claim 20, “NBC standards” is vague and indefinite because it is not clear what those standards are and an acronym should be completely written out in the claims.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(f) he did not himself invent the subject matter sought to be patented.

4. Claims 1-20 are rejected under 35 U.S.C. 102(f) because it appears the applicant did not invent the claimed subject matter. This rejection is made in light of the Armored Tomcar reference and the letter filed April 4, 2005, in the present application, directed to an Assertion of Non-Inventorship. Please note the Armored Tomcar reference was obtained from web.archive.org which discloses a publication date of June 19, 2003 for the reference.

5. Claims 1, 4, 6, 10-15 and 18 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by LeBlanc (4,346,915).

Note especially Figures 1 and 2 that disclose an armored vehicle with four wheels and a sloped armored envelope around preselected components. The suspension systems, axle housings, retainer plates, and portions of the hull under side are considered to anticipate a "chassis" without further limitations to distinguish over these elements. The "frame with a box channel" without further limitations is anticipated by several disclosed structures, including the floor element 45, the internal bulkheads, and the attaching side elements, or even the turret mounting ring and turret. Note column 3, lines 34-40 disclose doors and windows; column 4, lines 11-16 discloses upper hatches; column 4, lines 45-49 disclose run flat tires, which are inherently "bead locked"; column 5, lines 3-17, discloses an engine, a drive train with a transmission, drive shaft, and a rear differential, and a rear axle which reads over a rear drive for driving the rear wheels. Column 8, lines 9-52 disclose an air intake and a radiator with fan.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2, 3, 5, 8, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over LeBlanc (4,346,915) in view of Tank, page 119.

LeBlanc discloses an armored vehicle with four wheels and a sloped armored envelope around preselected components. See especially Figures 1 and 2. The suspension systems, axle housings, retainer plates, and portions of the hull under side are considered to anticipate a "chassis" without further limitations to distinguish over these elements.

The “frame with a box channel” without further limitations is anticipated by several disclosed structures, including the floor element 45, the internal bulkheads, and the attaching side elements, or even the turret mounting ring and turret. Note column 3, lines 34-40 disclose doors and windows; column 4, lines 11-16 discloses upper hatches; column 4, lines 45-49 disclose run flat tires, which are inherently “bead locked”; column 5, lines 3-17, discloses an engine, a drive train with a transmission, drive shaft, and a rear differential, and a rear axle which reads over a rear drive for driving the rear wheels. Column 8, lines 9-52 disclose an air intake and a radiator with fan. LeBlanc fails to disclose that the angled armor is thinner than the “parallel” armor or to specify the parameters of the armor. Also, LeBlanc fails to specify that the doors and armor envelope overlap at the seams. Tank teaches it is well known that thinner sloped armor can be used when compared to vertical armor. Motivation to combine is the improved performance available by having less weight in the sloped armor portions by making them thinner than the “parallel” or vertical portions, while maintaining the same degree of protection. The choice of particular parameters, such as the claimed thickness or degree of protection, is considered to be obvious engineering design choices to provide the desired level of performance in a particular situation. The clear and obvious intention to make the armor bullet-proof and LeBlanc’s teaching in column 3, lines 45-46 that even seals are provided on the doors and hatches, makes it obvious to one having ordinary skill in the art to have the doors overlap the armor at the seams since this type of structure is required, or at least obvious, to ensure ballistic protection. To employ the teachings of Tank on the vehicle of LeBlanc and have the claimed armor structural details is considered to have been obvious to one having ordinary skill in the art.

8. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over LeBlanc (4,346,915) in view of Miller (4,771,673).

LeBlanc is applied as above, noting that it fails to disclose that the window portions includes gun ports. Miller discloses that it is well known to provide a gun port in a window. See Figure 1. Motivation to combine is the increased performance available from being able to fire from a position that has a good view out the vehicle. To employ

the teachings of Miller on the vehicle of LeBlanc and have gun ports in the windows is considered to have been obvious to one having ordinary skill in the art.

9. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over LeBlanc (4,346,915) in view of Johnston et al (6,070,560).

LeBlanc is applied as above, noting that it fails to disclose that the cooling system has two fans. Johnston et al disclose that it is well known to provide two fans in a radiator cooling system. See column 2, lines 24-44. Motivation to combine is the increased performance available from having a plurality of fans to increase cooling efficiency. To employ the teachings of Johnston et al on the vehicle of LeBlanc and have two cooling fans is considered to have been obvious to one having ordinary skill in the art.

10. Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over LeBlanc (4,346,915) in view of Joy (4,526,013).

LeBlanc is applied as above, noting that it fails to disclose a climate control system, especially one that provides positive air pressure for NBC protection. Joy discloses that it is well known to provide a positive air pressure climate control system for NBC protection. See column 2, lines 37-63. Motivation to combine is the increased performance available from being able to protect the crew from a greater variety of threats. To employ the teachings of Joy on the vehicle of LeBlanc and have a positive air pressure climate control system is considered to have been obvious to one having ordinary skill in the art.

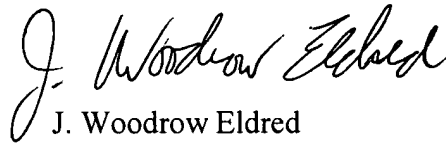
11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Giraud et al, Caron, Hallenbeck, Holler, and Bauer are cited as disclosing relevant armored vehicles or automotive elements.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Woodrow Eldred whose telephone number is 571-272-6901. The examiner can normally be reached on Monday to Thursday, from 8:00 a.m. to 5:30 p.m..

Art Unit: 3644

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on 571-272-7045. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, reading "J. Woodrow Eldred". The signature is fluid and cursive, with the first letters of each word being capitalized and prominent.

J. Woodrow Eldred
Primary Examiner
Art Unit 3644

JWE